

OPEN SESSION AGENDA ITEM

701 FEBRUARY 2018

DATE: February 11, 2018

TO: Members, Board of Trustees

FROM: Donna Hershkowitz, Chief of Programs
Dag Macleod, Chief of Mission Advancement and Accountability

SUBJECT: Strategic Planning Session Follow-Up

EXECUTIVE SUMMARY

On January 26 and 27, 2018, the Board conducted a strategic planning session where the Board considered new objectives to add to the 2017-2022 Strategic Plan, as well as objectives that should be revised or eliminated. This agenda item captures the full list of possible new objectives and action items discussed, as well as revisions to existing objectives and recommendations discussed for elimination of certain objectives that were completed in 2017.

BACKGROUND

In 2017, the Board of Trustees adopted the 2017-2022 Strategic Plan. The plan sets forth the following five goals for the State Bar:

Goal 1. Successfully transition to the “new State Bar” – an agency focused on public protection, regulating the legal profession, and promoting access to justice.

Goal 2. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Goal 3. Improve the fiscal and operational management of the State bar, emphasizing integrity, transparency, accountability, and excellence.

Goal 4. Support access to justice for all California residents and improvements to the state’s justice system.

Goal 5. Proactively inform and educate all stakeholders, but particularly the public, about the State Bar’s responsibilities, initiatives, and resources.

DISCUSSION

In January 2018, the Board of Trustees conducted its annual strategic planning session during which the Board focused its attention on areas that were not sufficiently defined or prioritized in the 2017-2022 Strategic Plan. Panels presented to the Board on methods for improving employee morale and career satisfaction, understanding access to justice needs and providing greater access, and initiatives to prevent harm to clients rather than responding after harm has occurred. As a result of the information provided, the Board engaged in lively discussions about possible changes to the objectives set forth in the Strategic Plan to ensure appropriate focus on these important topics.

As a result of the breadth of information provided, and the many options for incorporating or better incorporating these concepts in the 2017-2022 Strategic Plan, the Board did not have the opportunity to finalize modifications to the Strategic Plan at the planning session. Staff was instead directed to capture the list of possibilities discussed by the Board in response to all three panels, convert those ideas into objectives or action items, and present them to the Board in February for consideration. With respect to access to justice objectives, the Board opted to defer its final decision making to the March 2018 in person meeting. In addition, staff will present revised objectives reflecting incorporation of the 2017-2020 Information Technology Strategic Plan at the Board's March meeting. As a result, several of the new objectives must be read alternatives to one another, and choices among them selected. The annotated goals and objectives are included as Attachment A.

FISCAL/PERSONNEL IMPACT

Unknown fiscal and personnel impact to implement the new objectives identified in the updated 2017-2022 Strategic Plan.

RULE AMENDMENTS

None

BOARD BOOK IMPACT

None

STRATEGIC PLAN GOALS & OBJECTIVES 2017-2022

Goal: 1. Successfully transition to the “new State Bar”— an agency focused on public protection, regulating the legal profession, and promoting access to justice.

Objective: Implement and pursue governance, composition, and operations reforms needed to ensure that the Board's structure and processes optimally align with the State Bar's public protection mission.

RECOMMENDATION

Staff recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees adopt revisions to the 2017-2022 Strategic Plan.

ATTACHMENT LIST

- A.** Strategic Plan 2017-2022: Proposed Revisions to Objectives and New Action Items

Strategic Plan 2017-2022 Proposed Revisions to Objectives and New Action Items¹

Mission Statement:

The State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

Goal 1: Successfully transition to the “new State Bar” – an agency focused on public protection, regulating the legal profession, and promoting access to justice.

Objectives

- ~~a. Manage and support the transition of the State Bar Sections to a new standalone entity.~~
- b. Determine, by December 31, 2018, whether additional State Bar functional areas will should transition to the Sections entity, other organizations, or to new standalone entities, and develop an action plan for that transition, with the goal that all transitions will be complete by December 31, 2019.
- c. Implement and pursue governance, composition, and operations reforms needed to ensure that the Board's structure and processes optimally align with the State Bar's public protection mission.
- ~~d. Finalize an updated Mission Statement for the State Bar reflecting programmatic areas remaining after the transition analysis in order to improve the Bar's focus on its public protection and regulatory functions.~~
- e. By September 30, 2018, determine ~~Determine~~ the appropriate role of, and Board responsibility for, State Bar Standing Committees, Special Committees, Boards, and Commissions in the new State Bar.

Goal 2: Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Attorney Discipline Objectives

- a. For greater transparency, accountability, and efficiency, Develop and deploy a new case management system for OCTC, SBC, and Probation by October 31, 2018, and for Admissions by January 31, 2019. ~~for greater transparency and accountability.~~

¹ Note: For ease of reference, objectives retain their existing lettering, so the listing of objectives may appear alphabetically incorrect where additional objectives were added in between existing objectives.

- b. ~~Implement Workforce Planning and evaluate~~ Evaluate the impact of Workforce Planning reforms and report to the Board of Trustees on the results of that evaluation in January 2019.
- c. Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system, to include: (a) completion of a workload study for OCTC and SBC; (b) identification of staffing and resource needs based on the results of that study; and (c) development of new metrics for measuring the effectiveness of the discipline system including any needed revisions to the statutory backlog metric.
- d. ~~Implement~~ ~~Develop and implement~~ new attorney MCLE requirements and, by July 1, 2021, evaluate their impact and effectiveness.
- e. ~~Develop and implement an effective mechanism for ensuring compliance with MCLE requirements~~ a simplified mechanism for MCLE providers to report completion of course online and to integrate this information into My State Bar Profile to allow for 100% compliance auditing.
- f. Support adequate funding of the Client Security Fund.
- g. By December 31, 2018, evaluate attorney self-assessment models, including Colorado and Indiana, and determine what model should be implemented in California.

Action plan:

- Develop timeline for completing and deploying self-assessment
- Analyze complaints received by OCTC to determine the areas in which the self-assessment could be most likely to prevent client harm
- Adopt rules by December 31, 2019, governing implementation, including whether the self-assessment is voluntary or mandatory; whether the results of the self-assessment are reported to the State Bar; the areas of practice (skills, knowledge, abilities) to be included in the self-assessment; and the viability of creating a standard probation condition to require the taking of a self-assessment (or relevant portions thereof) in appropriate matters.
- h. In addition to the self-assessment create prevention education by July 1, 2020, in the areas of client service, law practice management, compliance with professional obligations, and dealing with high conflict personalities.
- i. By January 1, 2021, review existing harm prevention efforts using a public protection lens to identify opportunities to improve risk prevention efforts.
- j. Develop rules to require all practicing attorneys to take MCLE courses in every three-year cycle in trust account management. Evaluate the need to limit this requirement to any attorney who initially enters or transitions into private practice or who, as a condition of their practice, have a responsibility to manage a client trust account.
- k. (In lieu of several of the above assuming implementation) By January 1, 2020, evaluate and report to the Board of Trustees on the benefits of all of the following:

- Developing a self-assessment and requiring or making voluntary completion of this self-assessment
 - Development of training on dealing with high conflict personalities.
 - Mandating Client Trust Accounting as part of MCLE requirements.
 - Developing risk prevention educational options.
- l. Require all attorneys to report on My State Bar Profile information on their practice type and firm size, and to update that information in the same manner in which address updates are required.

Admissions Objectives

- g. After the results of the February 2019 Bar exam are published, Implement the two-day Bar Exam and evaluate results of the new two-day exam on pass rates and costs.
- h. ~~Conduct Bar Exam validity and pass line studies to determine whether or not additional changes to exam content, format, administration, or grading are needed, and implement needed changes.~~ By mid-2019, conduct a California-specific job analysis to determine the knowledge, skills, and abilities necessary for entry level attorneys. Upon completion, conduct a new content validation study to determine whether the California Bar Exam tests the right KSAs, and at the proper level.
- i. Review special admissions rules with an access to justice lens to determine whether changes are needed, and implement needed changes.

UPL Objectives

- j. Monitor improvements in the response to complaints regarding the unauthorized practice of law through tracking and reporting on complaints received, investigation timelines, civil filings, and law enforcement referrals.
- k. Partner with law enforcement agencies to create a coordinated regional response to the unauthorized practice of law.
- l. Identify funding sources, including grant funding or state funding to support the Bar's UPL efforts.

Goal 3: Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.

Objectives

- a. ~~Implement an updated Classification and Compensation structure reflecting the results of classification and compensation analyses completed in February 2017.~~
- b. Improve productivity through performance accountability, training, and professional development.

Action plan

- Provide tools and support to supervisors/managers to ensure performance accountability
 - Set expectations for line staff as well as supervisors and managers, and hold all levels of staff to those expectations.
 - Ensure that line staff are made aware of the expectations put on managers and supervisors generally.
- c. Improve staff morale and career satisfaction through recognition of performance, career path development and transparent and collaborative communication, as well as through recognition and encouragement of innovation, efficiencies, and money saving ideas

Action plan:

- Institute public employee recognition opportunities, for big events, and small – including formal recognition events.
 - Encourage attendance by Trustees at staff meetings.
 - Send office specific as well as all staff emails recognizing specific accomplishments, internal newsletter.
 - Implement the new Training and Development Program and report back to the Board of Trustees on the implementation and any results demonstrating its value or success.
 - Analyze retention rates at the State Bar and report to the Board of Trustees, including any breakdown possible identifying the characteristics of staff more likely to leave (e.g., low or high performers, long tenured or new staff, by office).
- d. Conduct employee evaluation survey annually and report to the Board on changes from prior years. Implement action plan to address the findings each year.
- ~~d. Reallocate funds to support the discipline system based on expenditure review, revenue enhancement measures, implementation of the Bar's reserve policy, and other reengineering efforts.~~
- e. Determine by October 2018, whether reallocation of funds to support the discipline system continues to be possible in light of the fact the Bar has not received a fee increase in nearly 20 years. As part of this effort, determine whether any funds classified as "restricted" can be used for broader purposes.
- f. Evaluate current collection efforts and determine what might be necessary to improve the Bar's ability to collection on discipline costs and CSF reimbursement.
- g. Determine, consistent with Business and Professions Code section 6140.9, whether there are excess funds in the LAP which can be transferred from LAP to help support the needs of CSF, or whether all funds are necessary to fully support the program.
- e. Develop goals and objectives for each functional area of the Bar, and use these to develop organizational performance metrics. ~~outcome and performance accountability metrics for assessing organizational and service effectiveness throughout the Bar.~~

- f. Implement the 2017-2020 technology plan.
- g. In conjunction with annual budgets, ensure maintenance and use of the Bar's Los Angeles and San Francisco buildings to maximize benefit to the Bar and the people of California.
- h. Pursue a two-year fee bill to ensure a balance between accountability and meaningful implementation of important reforms.

Goal 4: Support access to justice for all California residents and improvements to the state's justice system.

Objectives

- a. Support increased funding and enhanced outcome measures for Legal Services.\
- b. Study and implement improved programmatic approaches to increasing access to justice.
- c. Review the LRS certification rules with an access to justice lens.
- d. Review the Rules of Professional Conduct with an eye toward how they impact access to justice and how they can be revised to support access through technology.
- e. Explore options to increase access to lawyers and paraprofessionals, such as revisions to rules and policies governing registered in house counsel and registered legal services attorneys, limited license legal technicians, and other paraprofessionals.
- f. Explore implementing the navigator program from the State of New York.
- g. Improve pipeline programs to recruit more attorneys to serve rural areas.
- h. Review all Rules of Professional Conduct and State Bar Rules to re-examine the balance between public protection and access to justice.
- i. Conduct a California specific justice gap study and continue to spotlight the need to make changes to support increased access to justice.
- j. Explore ways in which access could be improved, and the justice gap closed by technological change.
- k. Undertake a California specific examination of loan forgiveness options, including attorneys who practice in a rural or frontier geographic area, expanding loan forgiveness for attorneys in private practice who devote a portion of their time to representing indigent individuals. This examination should include identification of ways that the Bar can financially support such programs.
- l. Study the rising costs of law school, corresponding bar passage rates, and ability to obtain employment after becoming licensed, by 2019.
- m. Establish a Task Force to consider adoption of a LLLT program reflecting lessons learned from other states with similar programs as well as CA's LDA and UDA program.

Goal 5: Proactively inform and educate all stakeholders, but particularly the public, about the State Bar's responsibilities, initiatives, and resources.

Objectives

- a. Develop and implement a Communication Strategy Plan for timely and effective ~~external and internal~~ communication about public protection goals, objectives, and accomplishments to the following external audiences: media, oversight bodies, regulated parties, other bars (mandatory or voluntary), and the general public.
- ~~b. Develop and implement a Communication Strategy Plan for timely and effective internal communication about public protection goals, objectives, and accomplishments.~~
- b. Develop metrics to measure both the quality and effectiveness of the Bar's communication and stakeholder engagement strategies, ~~for assessing efficacy of communication and stakeholder engagement efforts~~ and use those metrics to inform modifications to strategy.
- ~~c. Redesign the State Bar website to improve access, legibility, and utility for all stakeholders.~~
- d. ~~Partner with legal service providers and others to educate vulnerable populations regarding the problem of unauthorized practice of law, and ways that individual issues can be addressed.~~ Use communications strategies to support UPL enforcement objectives as to these audiences: general public, law enforcement, our stakeholders (Court, Legislature, and Governor) and regulated parties.
- e. Maintain and enhance relationships with courts and other regulatory and enforcement agencies that share a mission of public protection.
- f. Improve transparency, accountability, accessibility, and governance by increasing the availability of meeting materials and sustaining open meeting and open records compliance and ~~expanding~~ upon existing mechanisms to measure and report efforts to be accountable to stakeholders and the general public. ~~for regular communication with the Supreme Court, Legislature, Governor's Office, and the public.~~